

OLYMPIC STEAKHOUSE,  
Plaintiff,  
  
v.  
  
WESTERN WORLD  
INSURANCE GROUP, et al.,  
  
Defendants.

)  
)  
)  
)  
)  
)  
)  
)  
)

Case No. 1:23-cv-02191-JDB-jay

On May 3, 2023, Plaintiff, Olympic Steakhouse (“Olympic”), moved to remand by asserting that Defendant J.S. Held, LLC, and Steve Nash were not diverse parties. (Docket Entry (“D.E.”) 12-1 at PageID 81.) Plaintiff also requested attorney’s fees and expenses from Defendant, Western World Insurance Group (“Western World”) because its removal to this Court was objectively unreasonable. (*Id.* at PageID 81, 85.) The undersigned subsequently referred Plaintiff’s motion to the United States magistrate judge for a report and recommendation on these issues. (D.E. 13.)

On August 30, the magistrate judge recommended that J.S. Held and Nash be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m) due to Olympic's failure to timely serve those Defendants under both the Rule and a prior order of this Court extending the service period for thirty days. (D.E. 24 at PageID 135–36; *see* D.E. 20.) The magistrate judge further recommended that Plaintiff's motion to remand (D.E. 12) be denied as moot following the dismissal of J.S. Held and Nash as Western World was diverse from Olympic. (D.E. 24 at PageID 135–36.) The parties have filed no objections to the magistrate judge's report and recommendation and the time for doing so has expired.

Upon review of the record, the report and recommendation is ADOPTED. J.S. Held and Nash are DISMISSED without prejudice and Plaintiff's motion to remand and for attorney fees and expenses (D.E. 12) is DENIED as moot. Likewise, based on the Court's findings, Western World's assertion of fraudulent joinder in its notice of removal (D.E. 1), which the undersigned referred to the magistrate judge (D.E. 8), is moot.

IT IS SO ORDERED this 18th day of September 2023.

s/ J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE